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13 UNITED STATES BANKRUPTCY COURT

14 EASTERN DISTRICT OF CALIFORNIA

15 SACRAMENTO DIVISION

16 In re:	Case No.: 12-37961
17 ZACKY FARMS, LLC, a California limited	Chapter 11
18 liability company,	DC No.: FWP-19
19 Debtor-in-Possession.	<u>Hearing Date, Time and Location:</u> Date: March 26, 2013 Time: 2:00 p.m. Place: 501 I Street, 6 <sup>th</sup> Floor Department B, Courtroom 32 Sacramento, CA 95814 Judge: Honorable Thomas C. Holman
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25 **RESPONSE OF FOSTER POULTRY FARMS D/B/A FOSTER FARMS TO DEBTOR'S**  
26 **SECOND NOTICE OF (1) DESIGNATION OF UNEXPIRED OTHER EXECUTORY**  
27 **CONTRACTS AND LEASES TO BE ASSUMED AND (2) EVIDENCE IN SUPPORT OF**  
**FINDING OF ADEQUATE ASSURANCE OF FUTURE PERFORMANCE**

1 Creditor, Foster Poultry Farms d/b/a Foster Farms (“Foster Farms”), by and through its  
 2 undersigned counsel, hereby files the following response to the *Second Notice of (1) Designation of*  
 3 *Unexpired Other Executory Contracts and Leases to be Assumed and (2) Evidence in Support of*  
 4 *Finding of Adequate Assurance of Future Performance* (Docket Nos. 1320-1321) filed by the debtor  
 5 on March 12, 2013 (the “Second Designation Notice”):

6 **INCORPORATION BY REFERENCE**

7 1. The “Shared Services Agreement,” which appears on the Second Designation Notice,  
 8 was originally designated for assumption by the debtor on December 11, 2012. *See* Docket Nos. 400-  
 9 402. It was later withdrawn from the first assumption list and the debtor instead moved to reject the  
 10 Shared Services Agreement (*see* Docket Nos. 1114-1117). At the hearing on the rejection motion, the  
 11 Shared Services Agreement was then orally withdrawn from the rejection list, which change was  
 12 reflected on an amended list of rejected contracts filed by the debtor later that day. *See* Docket No.  
 13 1124. It has now been designated for assumption again.

14 2. Foster Farms previously filed an objection to the assumption of the Shared Services  
 15 Agreement, and the debtor’s proposed cure amount (the “Objection”). *See* Docket No. 490 (and  
 16 redacted Exhibits thereto at Docket No. 841).

17 3. The Second Designation Notice states that “any objections to the proposed Cure costs,  
 18 the assumption and assignment, or a determination that the Zacky Trust is capable of providing  
 19 adequate assurance of future performance” must be filed and served “on or before March 19, 2013.”  
 20 *See* Docket No. 1320, p. 2.

21 4. For the avoidance of any doubt as to Foster Farms’ position with respect to the Shared  
 22 Services Agreement, the Objection is hereby restated and incorporated herein by reference.

23 Dated: March 19, 2013

Respectfully submitted,

24 BLAKELEY & BLAKELEY LLP

25 By: /s/ Scott E. Blakeley  
 26 Scott E. Blakeley  
 Johnny White

27 Attorneys for Foster Poultry Farms d/b/a Foster  
 28 Farms